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C O N F I D E N T I A L SECTION 01 OF 03 CARACAS 000681

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TAGS: [PGOV](#) [KDEM](#) [VE](#)  
SUBJECT: CHAVEZ'S PROPOSED ELECTORAL LAW TO TRAMPLE  
MINORITY PARTIES

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Classified By: POLITICAL COUNSELOR FRANCISCO FERNANDEZ,  
FOR REASON 1.4(D)

¶1. (C) Summary: The National Assembly is actively considering a new electoral law that would drastically limit the ability of small parties in Venezuela to claim legislative seats at all levels of government. The legislature approved the measure in a first vote May 21, and it is currently engaging in public "consultations" before a final vote. In the interim, the National Electoral Council (CNE) has pledged not to hold any elections -- a limbo state that will last through the end of 2009, and possibly longer. This proposed "all or nothing" electoral system may portend the end of small pro-government parties, and will challenge the notoriously divisive opposition parties to unify in order to claim any legislative seats in the 2010 parliamentary elections. The embargo on elections will result in a number of key posts, including the Governor of Amazonas State, to exceed their terms of office set by the constitution. End Summary.

¶2. (SBU) The National Assembly (AN) distributed the proposed Organic Law of Electoral Processes on May 21 and approved it in its first reading the same day. AN President Cilia Flores announced May 26 that the commission currently reviewing the bill would be conducting "consultations" with the public before submitting it to the second and final AN vote at some undisclosed date in the future. The CNE issued a press release May 27 announcing that it would follow advice from the AN not to hold any elections -- in 2009 and not until the proposed law is passed -- to avoid legal uncertainties. According to constitutional mandates, the terms of the Governor of Amazonas State, a Chavista, and community council members expire in August 2009. Also pending is a bye-election to select a new mayor of Maracaibo to replace opposition leader Manuel Rosales, who sought political asylum in Peru in April, as well as elections to replace three mayors in Apure, Carabobo, and Yaracuy States.

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CONTENTS OF THE BILL  
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¶3. (SBU) The proposed law contains a wide range of new regulations, many of which appear to favor the government. The bill claims to "balance the principle of personalization with the principle of proportional representation, (in order to) respect the peoples' will." Currently, Venezuelans cast two votes during an AN election -- one for a national party list (selected by proportional representation), and the other for individual candidates running in their districts who are

selected by name (first-past-the-post, or "personalization").

According to current electoral law, 40 percent of the AN seats are allotted to the former, and 60 percent to the latter. The new bill would change the proportion so that if there are ten or more slots to be elected, three will be selected by party list and the rest by name. If the number is less than ten, then two of the seats will be by list, and the others by name.

14. (SBU) The bill also calls for "facilitating the right to vote in communities with difficult access," such as rural areas where Chavez's United Socialist Party of Venezuela (PSUV) holds near total sway, and for the military to act as an "entity of support" for running elections. The Chavista-dominated CNE is granted the sole authorization to remove or destroy electoral campaign materials, while the media -- both public and private -- is prohibited from supporting a specific candidate and also from refusing to broadcast electoral advertising.

15. (C) The publication of polls that do not have accompanying "technical data" are also prohibited, although there is no mention of which state institution would make that determination. Datanalisis pollster Luis Vicente Leon told Poloffs June 1 that Chavez has sought to play to Venezuelans' fears by creating the public perception that pollsters must supply the central government with the identifying personal information of respondents along with their answers. Leon predicted this measure would be eliminated in the final version of the bill, but that the government may benefit from a lingering impression that citizens' responses to public opinion polls may no longer be confidential.

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PSUV TO BENEFIT  
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16. (C) Political observers predict that the reduction in seats decided by proportional representation will make it more difficult for smaller parties to win AN or community council slots, while giving Chavez's dominant PSUV an advantage in racking up seats. While the law surely is aimed at exploiting the divisions and disunity among the opposition parties, the new system would also penalize small pro-government parties who have struggled to maintain their independence from the PSUV -- notably the Venezuelan Communist Party (PCV) and Patria Para Todos (PPT). Observers claim the bill will also grant new powers to the CNE that would allow it to redraw electoral districts, opening up the opportunity to gerrymander district lines to favor the PSUV.

17. (C) Organization Director of the opposition party Un Nuevo Tiempo Enrique Marquez told Poloffs May 28 that the draft law would change how votes are allocated, thus creating "all or nothing" politics. He noted that the technical nature of the issue makes it difficult to educate and mobilize Venezuelans to oppose it. He said the CNE had drafted its own less extreme electoral reform law but was preempted by Miraflores, who submitted the current bill to the AN one day prior. Despite this snub, Marquez predicted that the CNE would do nothing to challenge the proposal. As of June 2, only the single politically independent CNE rector, Vicente Diaz, had voiced public opposition to the Miraflores bill, calling it an "imposition of a majority system."

18. (C) Marquez claimed that, under the current system, the opposition would have had a good shot at claiming at least a third of the 165 elected AN seats. He assessed that even that many opposition seats would deny Chavez the two-thirds majority necessary to maintain complete legislative control. Marquez added that prior to 2005 -- when Marquez himself served in the AN -- the opposition's 70-some seats were

enough to "put a brake" on Chavez's rule. (Note: The opposition boycotted the 2005 AN elections, which has resulted in the PSUV controlling 139 of 165 seats. The remaining seats are held by Podemos and PSUV members who broke with Chavez. End Note.) Marquez opined that Chavez will not hold either municipal or AN elections unless he feels confident he can win soundly in both. He suggested Chavez will tell the AN to keep the bill in committee -- thus indefinitely suspending elections -- or "invent something" to postpone them, if needed. Similarly, Marquez claimed that Chavez will not hold municipal elections if he thinks he cannot maintain PSUV control of emblematic community councils, presumably in poor areas where the opposition has made inroads, such as the working class Petare neighborhood in Caracas.

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PCV, PPT COMPLAIN  
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¶9. (SBU) PPT Secretary General Rafael Uzcategui gave an interview to pro-opposition daily El Universal June 1 strongly criticizing the bill as an attempt to "control the National Assembly, with no ideological nor revolutionary purpose." He argued that the PSUV is attempting to squelch debate and diversity among Venezuela's left and force them to merge under the single umbrella of the PSUV. Uzcategui likened the proposed law to Pinochet's Chile, where the leftist party received 16 percent of the vote but not a single legislative seat. However, AN Deputy Simon Calzadilla, of PPT, announced June 1 that he would be sitting down with his PSUV AN colleagues to negotiate the bill's language. According to Calzadilla, PPT plans to ask that the AN use the draft submitted by the CNE instead of the one sent by Miraflores. PPT also proposes that half of legislative seats be selected via proportional representation, and half by first-past-the-post -- unrealistically allotting more seats via proportional representation than even the current system does.

¶10. (SBU) In a May 31 press conference, AN Deputy Carlos Aquino, of PCV, acknowledged that his party had voted in favor of the bill during the first AN vote but had some reservations. He noted that the bill's current form violates the spirit of the constitution, which claims to protect minority groups. He pointed out this is not in reference to "exploitative minorities" who have held power in the past,

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but rather those who have historically been excluded, such as indigenous groups. Aquino added that all bills require some revisions before their final passage, and that he was confident the current consultations being undertaken would yield an improved bill.

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COMMENT  
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¶11. (C) The electoral bill appears cleverly designed to benefit President Chavez in a number of ways. He can finally compel the remaining small pro-government parties to merge into the PSUV or be politically marginalized. In upcoming elections for the AN and community council seats, the PSUV will be poised to retain or even expand its legislative control at all levels of government. The opposition may be able to use the new allocation of votes to increase its control of seats in wealthy urban areas where it is already strong, but not outside of state capitals where Chavismo enjoys a virtual monopoly. This will greatly hinder opposition parties' efforts to expand their popular bases -- something party representatives admit they have neglected to do over the years while focusing their attention solely on winning elections.

¶12. (C) The bill also creates some flimsy legal cover for

Chavez to delay elections as long as he chooses, since bills can languish for years in AN committee. The current allocation of seats both in the AN and in most community councils greatly favors the PSUV, and Chavez has every reason to delay passage of the electoral bill until he judges that he is well-positioned to oversee local and AN elections that will maintain overwhelming PSUV control of Venezuela's compliant legislature.

CAULFIELD